IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.16154 of 2001

Between:

1. R.Shanker Reddy, S/o.Krishna Reddy, 55 years, Retd.Asst.Business Manager, O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.
2. M.A.Raheem, S/o.Gaffoor, 57 years, Retd.U.d.C., O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.
3. M.Dayaker Rao, S/o.Srinivasa Rao, 54 years, Retd.Store Keeper, O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.
4. D.Veerasham, S/o.Papaiah, 55 years, Retd.Accountant, O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.
5. E.Venkat Ram Reddy, S/o.Rajireddy, 55 years, Retd.Storekeeper, O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.
6. M.Indra Reddy, S/o.Tirupathi Reddy, 54 years, Retd.L.D.C., O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.
7. Y.Narsimha Reddy, S/o.Ragavareddy, 55 years, Retd.L.D.C., O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.
8. R.Narayana Rao, S/o.Kistaiah, 53 years, Retd.Storekeeper, O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.
9. B.Laxmy Rajam, S/o.Sayanna, 57 years, Retd.Storekeeper, O/o.Dist.Cooperative Marketing Society Ltd., Karimnagar.

...PETITIONERS

AND

1. The President/Chairman, Karimnagar District Cooperative Marketing Society Ltd., Karimnagar, Karimnagar District.

2. The Business Manager, Karimnagar District Cooperative Marketing Society Ltd., Karimnagar, Karimnagar District.

3. The Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad.

4. The District Collector, Karimnagar District.

5. The Joint Registrar/District Cooperative Officer, Karimnagar, Karimnagar District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High may be pleased to issue a writ, order or direction more in the nature of Mandamus directing the respondents to pay all the retiremental benefits including interest @ 24% P.A., on the delayed payment to the petitioners for having been retired with effect from 31.03.2001 vide cyclostyled Proc.Rc.No.1865/93-E dated 28.02.2001 issued by the first respondent under V.R.S. Scheme in terms of Govt.Memo.No.1038/PE.1/A2/94-4 dated 23.01.1996 with all consequential benefits by holding the action of the respondents in not paying the petitioners legitimate due retiremental benefits along with interest on acceptance of their retirements under V.Rs. Scheme with effect from 31.03.2001 as illegal, arbitrary, discriminatory and subversive of Articles 14 and 16 of the Constitution of India besides same is opposed to all principles of equity, justice and fair play of subversive of Articles 14, 16 and 21 of the Constitution of India.

Counsel for the Petitioners: MR.S.SATYAM REDDY

Counsel for the Respondents 1 & 2: MR.P.V.NARAYANA RAO

Counsel for the respondents 3 to 5: G.P. for Co-operation.

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.16154 of 2001

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ORDER:

Heard Sri S.Satyam Reddy, the learned counsel appearing for the petitioner, Sri P.V.Narayana Rao, the learned counsel appearing for respondent Nos.1 and 2 and the learned Government Pleader for Cooperation appearing for respondent Nos.3 to 5.

The petitioners herein, who are the retired employees of the respondent-Society, filed this Writ Petition, *inter alia*, seeking a writ of mandamus for a direction to pay all the retiremental benefits including interest in terms of the Voluntary Retirement Scheme enunciated as per the Memo No.1038/PE.1/A2/94-4 General Administration (PE-1) Department dated 23.01.1996 with all other consequential benefits.

The main grievance of the petitioners is that the petitioners worked in various capacities in the respondent-Society and ultimately, so as to meet the financial constraints of their families, they availed the Voluntary Retirement Scheme and accordingly, they retired from services with effect from 31.03.2001 as per the order dated 23.01.1996 passed by the first respondent. In spite of such retirement, no

retiremental benefits were paid to them so far. Hence, the Writ Petition.

In the counter-affidavit filed by the respondents, it is stated that whatever benefits to which the petitioners were entitled to were already paid as stated in para 5 and therefore, they are not entitled for anything more.

During the course of the arguments, it is submitted that the amounts mentioned in para 5 of the counter-affidavit against each of the petitioner were paid during the course of these proceedings. However, the learned counsel appearing for the petitioners submitted that he could not repay the actual amounts to which they were entitled to under various heads as contemplated under the Scheme itself.

Having considered the submissions made on either side and on perusal of the material available on record, the only question, which arises for consideration, is whether the petitioners were paid all the benefits to which they are entitled to under the law.

There is no dispute with regard to the fact that the petitioners availed the Voluntary Retirement Scheme and retired with effect from 31.03.2001 as per the proceedings dated 23.01.1996. However, the dispute is with regard to the amounts to which they are actually entitled to.

In the affidavit filed in support of the Writ Petition and the material papers filed therein, a statement has been furnished showing tentative amounts to which they are entitled to. The details of the same are read as follows:

However, as per the counter-affidavit in para 5, it is stated that the petitioners are entitled to the amounts as mentioned below:

1. R.Shankar Reddy .. 23,727-00

2. M.A.Raheem .. 23,727-00

3. M.Dayakar Reddy .. 2,95,630-00

4. B.Veeresham .. 23,727-00

5. E.Venmkatram Reddy .. 23,727-00

6. M.Indra Reddy .. 23,727-00

7. Y.Narasimha Reddy .. 23,727-00

8. R.Narayana Rao .. 2,46,411-00

9. B.Laxmirajam .. 23,727-00

_____ Total: 7,08,130-00

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From the above it is evident that there is a serious dispute in regard to the quantum of the amounts to which each of the petitioner is entitled to under various heads.

The complaint of the petitioners is that they have put in a long span of service in the respondent-Society and the amounts should not be so meager. Further, the respondent-Society did not repay even the basic calculation which has to be adopted under the various heads. However, having regard to the fact that such disputes cannot be dealt with in exercise of powers under Article 226 of the Constitution of India. It is felt absolutely necessary that an opportunity should be given to the petitioners and the appropriate competent authority should determine the amounts.

In the circumstances, the Writ Petition is disposed of directing the Joint Collector, Karimnagar District, who is the person-in-charge of the Society, to conduct an enquiry by giving an opportunity to both sides and determine the amounts to be paid to the petitioners towards the retiremental benefits to which each of the petitioner is entitled to and on such determination, the respondent-Society shall make payment accordingly. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order. The authority concerned shall give due notice and sufficient opportunity to the petitioners to produce any material including the statement of accounts in respect of each of the item. It is needless to mention that once the amount is determined, it shall be paid within a period of two months there on.

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(B.PRAKASH RAO, J)

30th March 2005

Note: CC by one week

B/O

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The President/Chairman, Karimnagar District Cooperative Marketing Society Ltd., Karimnagar, Karimnagar District.
2. The Business Manager, Karimnagar District Cooperative Marketing Society Ltd., Karimnagar, Karimnagar District.
3. The Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad.
4. The District Collector, Karimnagar District.
5. The Joint Registrar/District Cooperative Officer, Karimnagar, Karimnagar District.
6. Two CD copies.
7. Two C.Cs. to the G.P. for Co-operation, High Court Buildings, Hyderabad (OUT).